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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/737,299

12/16/2003

Isaac D. White

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38516 7590 05/29/2008

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EXAMINER

LE, TAN

ART UNIT

PAPER NUMBER

3632

MAIL DATE

DELIVERY MODE

05/29/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                     |  |
|------------------------------|--------------------------------------|-------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/737,299 | <b>Applicant(s)</b><br>WHITE ET AL. |  |
|                              | <b>Examiner</b><br>Tan Le            | <b>Art Unit</b><br>3632             |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-8,10,11 and 13-19 is/are pending in the application.
- 4a) Of the above claim(s) 2,4,17 and 20-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 5-8, 10-11, 13-16 and 18-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Applicant's amendment filed 2/18/08 is acknowledged. Claims 1, 5-8, 10-11, 13-16 and 18-19 remains pending. Claims 3, 9 and 12 were canceled. Claims 2, 4, 17 and 20-24 were previously withdrawn from consideration.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 5-8, 10-11, 13-16 and 18-19 are under 35 U.S.C. 103(a) as being unpatentable over AU Patent No. 200223231 to Nagle in view of US Patent No. 6,042,080 to Shepherd et al. and further in view of US Patent No. 6,158,555 to Brown, Jr.

As to claims 1, 5-8, 10-11, 13-16 and 18-19, Nagle teaches a telescopic support pole for supporting a cable above the ground or floor at construction sites and in factories comprising a base (19); at least one or more segments (25) connected to the base; at least second segment (12, 14) connected to the first section; a cable receptacle (28) attached to an end portion of one of the segment; the cable receptacle having a generally U-shaped cross-section for receiving cable.

The Nagle device differs from claim 1 and 19 of the present invention in that it is not provided with at least one attachment device in the base, wherein the attachment device is an adhesive to adhere the base to the attachment surface.

Shepherd et al. teaches the concept of such. In particular, Shepherd teaches an adhesive attachment device (magnet base 14 (magnets 20 retained within the base 14 via adhesive, for example) for removably attachable to a magnetically attachment plate/surface such as surface 90, 90' or 102 (see Figs 15-17, or col. 10, lines 10-63) for example). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a an adhesive attachment device on the Nagle base as taught by Shepherd et al. in order to provide a base which is stable, inexpensive and simple to set up with minimal effort and readily removable and transportable.

Nagle and Sepherd et al combined demonstrated all the claims features of Applicant's invention except for a control system operative associated with the cable, wherein the control system is configured for receiving instructions communicated through at least one wireless communication media; a portable communication device configured to provide instructions to control system through at least a wireless communication media, and at least one mechanical driving mechanism such as "gears, chains, belts, ball bearings, and/or other like components" (Applicant's specification, page 8, [0024]) operatively coupled to respond the control system to enable the telescoping action.

Brown Jr. teaches the concept of such. Brown, Jr. teaches the control system generally in a control panel 16 and control the extension and retraction of the mast 4 through drive mechanism (not shown)) –it would have been obvious to one of ordinary skill in the art at the time the invention to provide a control system operative associated with the cable wherein the control system is configured for receiving instructions

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communicated through at least one communication media, and a portable communication device configured to provide instructions to control system through at least one communication media and at least one mechanical driving mechanism operatively coupled to respond the control system to enable the telescoping action on the Nagle as modified telescopic support pole as taught by Brown Jr. in order to allow the user to remotely control the telescopic action through wireless medium to a computer system which instructs the driving mechanism to extend the telescoping segments so that the height of the pole can be automatically adjusted depending the conditions of use.

Nevertheless, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an automatic control means which in this case a control system and a portable communication device operatively associated with the telescopic segments of the pole or mass and the mechanical driving mechanism operatively coupled to respond to the control system to enable the telescopic action, since it has been held that broadly providing a mechanical or automatic means to replace manual activity, which has accomplished the same result involves only routine skill in the art. In re Venner, 120 USPQ 192.

### ***Response to Arguments***

Applicant's arguments filed 2/18/08 have been fully considered but they are not persuasive.

Applicant basically argues that Shepherd et al. does not disclose/teach “wherein the attachment device is an adhesive that adheres the base to an attachment surface” and “the deficiencies of Nagle with respect to “an adhesive” are not remedied by the teachings of Sheperd”. Examiner respectfully disagrees with Applicant because the term “adhesive”, by definition, is a substance which makes things stick (Dictionary.com), in the instant case, Shepherd teaches a magnetic base 14 or 96 (for example) for magnetically attractable to plate/surface (90, 90', 102 etc.) or to make the base 14 stick to the attractable surface 90, 90' or 102). Thus Shepherd teaches an adhesive to attach a base 14 to an attachment surface 90, 90' or 102 and "the magnetically attractable" as taught by Shepherd clearly meets the definition.

### ***Conclusion***

#### **THIS ACTION IS MADE FINAL.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818. The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Amy J. Sterling/  
Primary Examiner, Art Unit 3632  
5/27/08

/T. L./  
Examiner, Art Unit 3632